

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

TRETA FAYE DOVER

PLAINTIFF

V.

NO. 3:15CV00012-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

This cause is before the Court on Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration regarding claims for a period of disability and Disability Insurance Benefits and Supplemental Security Income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The Court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the Court's ruling from the bench during oral argument, the Court finds the ALJ's residual functional capacity assessment ("RFC") is not supported by substantial evidence in the record. The ALJ found the claimant's bilateral thumb disorder was a severe impairment, yet assessed the claimant with an RFC that included "frequent but not repetitive bilateral handling." The ALJ provided no explanation for rejecting both Dr. Robert Shearin's February 2013 findings of bilateral thumb pain on adduction against resistance and questionable ability to handle objects and his medical source statement which restricted the claimant to only occasional handling. Additionally, the ALJ did not address Dr. Shearin's opinion that the claimant was limited to only occasional fingering (fine manipulation). These failures by the ALJ

were not harmless, considering that the jobs proffered by the vocational expert all required the ability to frequently handle objects, and the claimant's past work as a cashier also required frequent fingering. On remand, the ALJ shall reconsider the claimant's RFC—making certain to first perform a function-by-function assessment of the claimant's capacity to perform sustained work activity—and obtain supplemental vocational expert testimony if necessary. The ALJ may conduct any additional proceedings not inconsistent with this order.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is **REMANDED** for further proceedings.

This, the 20th day of October, 2015.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE